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# C.H. POWELL COMPANY

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OCEAN TRANSPORTATION INTERMEDIARY AND CUSTOM HOUSE BROKER

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ORIGINAL

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Honorable Bryant L. Van Brakle  
Secretary  
Federal Maritime Commission  
800 North Capitol Street, N. W.  
Washington, D.C. 20573

July 31, 2003

RE: Petition of National Customs Brokers and Forwarders  
Association of America, Inc. for a Limited Exemption From  
Certain Tariff Requirements of the Shipping Act of 1984

Petition No. ~~03-~~ **5-03**

Dear Secretary Van Brakle:

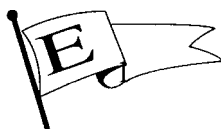
My name is David E. Powell. I am Vice President of Operations at C.H. Powell Company. C. H. Powell Company is a licensed Ocean Transportation Intermediary with license number 0176NF.

C. H. Powell Company has seventeen offices throughout the United States, with a total staff of approximately 200 people. NVOCC services are performed at nine of these locations. C. H. Powell Company performs approximately 13,000 NVOCC transactions per year.

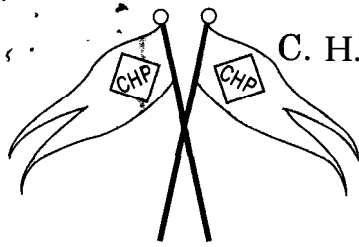
C. H. Powell Company has an exclusive agency agreement with Damco Maritime International B.V. of the Netherlands. Via the Damco Maritime Network, C.H. Powell Company has agents in more than 45 countries.

On behalf of my company, I would like to lend my voice in support of the above referenced petition. I will detail briefly the economic cost tariff filing imposes on my company. I will explain why the regulatory burden is often at odds with the commercial nature of my business. I will explain why the current rules place NVOCCs at a competitive disadvantage versus vessel operators. I will explain why NVOCC tariff filing serves no beneficial purpose for my company or my customers.

PRESIDENT'S "E" AWARD



EXCELLENCE IN EXPORTS

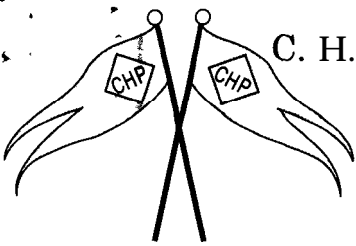


## C. H. POWELL COMPANY

In 2001, C.H. Powell Company paid \$10,293.38 in direct expense to a third party provider for tariff hosting services. In 2002, the direct expense was \$ 3,855.15 (the reduction due primarily to a renegotiated fee structure). In addition, approximately 500 staff hours per year are expended in administrating tariff filing requests to the hosting company, at an estimated payroll cost of \$ 30.00 per hour (\$15,000.00 per year). In 2002, the estimated cost of tariff filing (\$ 18,855.15) equated to \$ 1.45 per transaction. In 2002, the estimated cost of tariff filing equated to 0.95% of total operating expense for C.H. Powell Company's NVOCC divisions. While such an expense is economically viable under our current business model, it is a significant component of the company's NVOCC operating expense, on par with other standard expense categories such as travel/training (\$ 20,908.63 in 2002), forms/stationery (\$ 6,173.22 in 2002) , and dues/memberships (\$ 7,697.00 in 2002).

As an NVOCC, C. H. Powell Company is not constrained in its service offerings to its clients by specific vessels or vessel strings. Like most NVOCCs, C.H. Powell Company operates on a much smaller scale than virtually all Vessel Operators. The scope of our NVOCC service is driven by our clients' requirements rather than long term return on fixed assets. Each client requires a unique transport solution with unique pricing. Consequently, the structure of tariff based pricing, rather than producing efficiency and consistency, serves only to create roadblocks to the appropriate rate application for each shipper.

The cost that an NVOCC pays out for freight service to steamship lines is currently controlled almost exclusively by confidential service contracts. Ostensibly, the service contracts should allow the NVOCC to define its cost over a specific period of time. However, where a service contract used to entail a commitment of price, service, and timeframe from one party in exchange for a commitment of volume from the other party, it is now used ~~by the carriers solely as a filing convenience and confidentiality~~ shield. C. H. Powell Company is party to more than 15 service contracts, all of which are subject to rate surcharges vaguely referenced in underlying tariffs, and all of which are subject to general rate increases at the discretion of the carrier. Quicker than the NVOCC can lock a carrier into a fixed commitment on a well established surcharge, the carrier unilaterally establishes a new surcharge in its governing tariff which serves the same purpose and which is automatically applicable to all service contracts. Carriers are also forward filing "target" rate increases (GRIs) in their governing tariffs, applicable to all service contracts, at levels which are speculative and subject to last minute revision. The carriers are free at any time to deviate from such target pricing with their selective clients, through service contracts. NVOCCs, without the options of confidential service contracting , have no choice but to declare and implement the GRIs in full as declared by the carriers, and then sit back and wait until the dust settles, by which time a percentage of their customers have left for a more definitive situation with a direct carrier. The



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NVOCC, which survives exclusively on the freight spread per transaction between rate paid and rate charged, is stuck in the middle between overly rigid and structured pricing on the one side (commodity based tariff filing), and overly variable cost factors on the other side (the service contract/tariff hybrid imposed by the carriers).

The most compelling reason for eliminating tariff rate filing requirements for NVOCCs is that the shipping community does not require such regulation, and does not make use of it. To be sure, our clients require us to define the freight rating applicable to their shipments. Each client wants its pricing structured: documented, applied and audited in a unique way. Ubiquitous computer tools, such as excel spreadsheets and e-mail, are more conducive to rate maintenance for NVOCCs than are cumbersome databases. Since the inception of its OTI license in 1999 and the conversion of its tariff from ATFI, to the best of my knowledge, C. H. Powell Company has never received even one inquiry from the shipping public on its web-based tariff. Over \$ 50,000.00 has been spent in tariff maintenance and administration expense since 1999, and not a single inquiry has been made.

I, David E. Powell, declare under penalty of perjury that the foregoing is true and correct. Further I certify that I am qualified and authorized to file this verified statement.

Executed on July 31, 2003.